

## Non-Discrimination

The North Carolina Code of Conduct for DENC and PSNC prohibits discrimination against non-affiliated entities. This section requires that these companies or employees of these companies abide by certain non-discriminatory practices, including avoiding giving preferences to affiliate relative to non-affiliates, apply tariffs equally, and provide consistency in the response and approach to requests for service.

ORS concludes that a similar provision in this Code would ensure equality in the Company's various affiliate transactions and the manner in which it responds to customer requests for information. Such a provision would also help ensure impartiality in business dealings as required in Order No. 2018-804.<sup>1</sup>

ORS recommends the inclusion of the following language with respect to this provision:

1. General – DESC's employees and representatives shall not unduly discriminate against non-Affiliated entities.
2. Preferences – In responding to requests for electric services, natural gas services, or both, DESC shall not provide any preference to Dominion Energy, another Affiliate, or a Non-Regulated utility operation, or to any customers of such an entity, as compared to non-Affiliates or their customers. Moreover, neither DESC, Dominion Energy, nor any other Affiliates shall represent to any person or entity that Dominion Energy, another Affiliate, or a Non-Regulated utility operation will receive any such preference.
3. Application of Tariffs – DESC shall apply the provisions of their respective tariffs equally to Dominion Energy, the other Affiliates, the Non-Regulated utility operations, and non-Affiliates.
4. Requests for Service:
  - a. DESC shall process all similar requests for electric services, natural gas services, or both, in the same timely manner, whether requested on behalf of Dominion Energy, another Affiliate, a Non-Regulated utility operation, or a non-Affiliated entity.
  - b. DESC shall treat similarly situated shippers in the same manner with respect to the delivery of gas on distribution facilities, contract terms, the scheduling of gas supplies, balancing provisions, and allocation of gas supplies and capacity at city gate stations.
  - c. DESC shall post on its website its criteria for evaluating proposals from shippers. DESC shall not give one shipper any form of preference over other similarly

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<sup>1</sup> Order No. 2018-804 reads, in part, that "SCE&G shall not engage in improper self-dealing with other Dominion affiliates where there are competitive alternatives" (at pp. 100-101).

situated shippers in matters relating to assignment, release, or other transfer of capacity rights on interstate pipeline systems.

5. Speaking for Utility – No Personnel of DESC, Dominion Energy, or another Affiliate shall indicate, represent, or otherwise give the appearance to another party that Dominion Energy or another Affiliate speaks on behalf of DESC; provided, however, that this prohibition shall not apply to employees providing shared services or to employees of another Affiliate to the extent explicitly provided for in an affiliate agreement that has been accepted by the Commission. In addition, no Personnel of a Non-Regulated utility operation shall indicate, represent, or otherwise give the appearance to another party that they speak on behalf of DESC's regulated public utility operations.
6. Advantages – No Personnel of DESC, Dominion Energy, another Affiliate, or a Non-Regulated utility operation shall indicate, represent, or otherwise give the appearance to another party that any advantage to that party with regard to electric services or natural gas services exists as the result of that party dealing with Dominion Energy, another Affiliate, or a Non-Regulated utility operation, as compared with a non-Affiliate.
7. Tying – DESC shall not condition or otherwise tie the provision or terms of any electric services or natural gas services to the purchasing of any goods or services from, or the engagement in business of any kind with, Dominion Energy, another Affiliate, or a Non-Regulated utility operation.
8. Information to Customers:
  - a. When any DESC personnel receives a request for information from or provides information to a Customer about goods or services available from Dominion Energy, another Affiliate, or a Non-Regulated utility operation, the personnel shall advise the Customer that such goods or services may also be available from non-Affiliated suppliers.
  - b. All DESC information pertaining to interstate pipeline transportation, storage, distribution, or gas supply that is provided to a gas marketing affiliate shall be made available to all shippers on a contemporaneous, nondiscriminatory, and non-preferential basis by posting the information on its website and provided in a written form upon the request of a shipper. Aggregate customer information and market data made available to shippers shall be made available on a similar basis.
  - c. DESC shall post on its website a current list of contact persons and telephone numbers of all gas marketers that are active on its system.
9. Disclosure of Customer Information – Disclosure of Customer Information to Dominion Energy, another Affiliate, or a Non-Regulated utility operation, or a non-

Affiliated entity shall be governed by Sections III(D) and IV(D) of this Code of Conduct.

10. Unless otherwise directed by order of the Commission, electric generation shall not receive a priority of use from DESC that would supersede or diminish DESC's provision of service to its human needs firm residential and commercial customers.<sup>2</sup>
11. DESC shall file an annual report with the Commission summarizing all requests or inquiries for natural gas services made by a non-utility generator, DESC's response to the request, and the status of the inquiry.

### Marketing

The North Carolina Code of Conduct for DENC and PSNC outlines certain provisions that define how these companies may jointly market sales, calls, proposals, and advertising with affiliates and non-regulated utility operations. This section of the Code of Conduct approved by the NCUC requires the use of certain disclaimers when affiliates use either the names or logos of DENC or PSNC in any form of communication within these companies' North Carolina service territories. Similar provisions are imposed with respect to disclaimers required of Non-regulated utility operations representing either DENC or PSNC in communications within the same service territories.

ORS concludes that a similar provision in this Code for DESC would ensure transparency in any marketing materials or similar communication circulated by DESC affiliates.

ORS recommends the inclusion of the following language with respect to this provision:

1. Joint Marketing – The public utility operations of DESC may engage in joint sales, joint sales calls, joint proposals, or joint advertising (a joint marketing arrangement) with their Affiliates and with their Non-Regulated utility operations, subject to compliance with other provisions of this Code of Conduct and any conditions or restrictions that the Commission may hereafter establish. DESC shall not otherwise engage in such joint activities without making such opportunities available to comparable third parties
2. Affiliate Disclaimers – Neither Dominion Energy nor any of the other Affiliates shall use the name or logo of DESC in any communications targeted at DESC's South Carolina service territories without the following disclaimers:
  - a. “[Dominion Energy/Affiliate] is not the same company as DESC, and [Dominion Energy/Affiliate] has separate management and separate employees;”
  - b. “[Dominion Energy/Affiliate] is not regulated by the Public Service Commission of South Carolina or in any way sanctioned by the Commission;”

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<sup>2</sup> PSNC agreed to this provision in North Carolina.

- c. "Purchasers of products or services from [Dominion Energy/Affiliate] will receive no preference or special treatment from DESC;" and
- d. "A customer does not have to buy products or services from [Dominion Energy/Affiliate] in order to continue to receive the same safe and reliable electric or natural gas service from DESC."

3. Non-Regulated Utility Operations Disclaimers:

- a. Non-Regulated utility operations may not use the name or logo of DESC in any communications targeted at DESC's South Carolina service territories without the following disclaimer:
  - i. "[Name of product or service being offered by Non-Regulated utility operation] is not part of the regulated services offered by DESC and is not in any way sanctioned by the Public Service Commission of South Carolina."
- b. DESC's Non-Regulated utility operations may not use the name or logo of DESC in any communications targeted at DESC's South Carolina service territory without the following disclaimers:
  - i. "Purchasers of [name of product or service being offered by Non-Regulated utility operation] from [Non-Regulated utility operation] will receive no preference or special treatment from DESC;" and
  - ii. "A customer does not have to buy this product or service from [Non-Regulated utility operation] in order to continue to receive the same safe and reliable electric service from DESC."

The required disclaimers in this Part 3(b) of this subsection must be sized and displayed in a way that is commensurate with the name and logo so that the disclaimer is at least the larger of one-half the size of the type that first displays the name and logo or the predominant type used in the communication.

Compliance Officer

The North Carolina Code of Conduct for DENC and PSNC requires that these companies designate an individual (i.e., a chief compliance officer) who will be responsible for the companies' compliance with the Code of Conduct. This individual's name and contact information are also to be made public on these companies' websites.

ORS concludes that a similar provision in this Code for DESC would be a pragmatic approach to facilitate compliance with the merger conditions and the Code approved by the Commission.

ORS recommends the inclusion of the following language with respect to this provision:

1. Designation of Chief Compliance Officer – DESC shall designate a chief compliance officer who will be responsible for compliance with the Merger Conditions and Code of Conduct. This person’s name and contact information must be posted on DESC’s Internet Websites.

#### Customer Information

The North Carolina Code of Conduct for DENC and PSCN outlines provisions for sharing customer information between these companies, Dominion Energy, and other affiliates.

ORS concludes that a similar provision in this Code of Conduct for DESC would define the manner in which Customer Information may be shared among DESC, Dominion Energy, and other affiliates and would protect such information from unauthorized disclosure.

ORS recommends the inclusion of the following language with respect to this provision:

1. Upon request, and subject to the restrictions and conditions contained herein, DESC may provide Customer Information to Dominion Energy or another Affiliate under the same terms and conditions that apply to the provision of such information to non-Affiliates. In addition, DESC may provide Customer Information to its Non-Regulated utility operations under the same terms and conditions that apply to the provision of such information to non-Affiliates.
2. Except as provided in Part 6 of this subsection, Customer Information shall not be disclosed to any Affiliate or non-affiliated third party without the Customer’s consent, and then only to the extent specified by the Customer. Consent to disclosure of Customer Information to Affiliates of DESC or to DESC’s Non-Regulated utility operations may be obtained by means of written, electronic, or recorded verbal authorization upon providing the Customer with the information in a format that is otherwise acceptable to the Public Service Commission of South Carolina; provided, however, that DESC retain such authorization for verification purposes for as long as the authorization remains in effect. Written, electronic, or recorded verbal authorization or consent for the disclosure of DESC’s Customer Information to DESC’s Non-Regulated utility operations is not required.
3. If the Customer allows or directs DESC to provide Customer Information to Dominion Energy, another Affiliate, or to DESC’s Non-Regulated utility operations, then DESC shall ask if the Customer would like the Customer Information to be provided to one or more non-Affiliates. If the Customer directs DESC to provide Customer Information to one or more non-Affiliates, the Customer Information shall be disclosed to all entities designated by the Customer contemporaneously and in the same manner.
4. This subsection shall be permanently posted on DESC’s website(s).

5. No DESC employee who is transferred to Dominion Energy or another Affiliate shall be permitted to copy or otherwise compile any Customer Information for use by such entity except as authorized by the Customer pursuant to Part 2 of this subsection. DESC shall not transfer any employee to Dominion Energy or another Affiliate for the purpose of disclosing or providing Customer Information to such entity.
6. Notwithstanding the prohibitions established by this subsection:
  - a. DESC may disclose Customer Information to any other Affiliate or a non-affiliated third party without Customer consent to the extent necessary for the Affiliate or non-affiliated third party to provide goods or services to DESC and upon the written agreement of the other Affiliate or non-affiliated third party to protect the confidentiality of such Customer Information. To the extent the Commission approves a list of services to be provided and taken pursuant to one or more utility-to-utility service agreements, then Customer Information may be disclosed pursuant to the foregoing exception to the extent necessary for such services to be performed.
  - b. DESC may disclose Customer Information to its Non-Regulated utility operations without Customer consent to the extent necessary for the Non-Regulated utility operations to provide goods or services to DESC and upon the written agreement of the Non-Regulated utility operations to protect the confidentiality of such Customer Information.
  - c. DESC may disclose Customer Information if a state or federal regulatory agency or court of competent jurisdiction over the disclosure of the Customer Information requires the disclosure.
7. DESC shall take appropriate steps to store Customer Information in such a manner as to limit access to those persons permitted to receive it and shall require all persons with access to such information to protect its confidentiality.
8. DESC shall establish guidelines for its employees and representatives to follow with regard to complying with this subsection.
9. No employee may use Customer Information to market or sell any product or service to DESC's Customers, except in support of a Commission-approved rate schedule or program or a marketing effort managed and supervised directly by DESC.
10. Employees with access to the Customer Information must be prohibited from making any improper indirect use of the data, including directing or encouraging any actions based on the Customer Information by employees that do not have access to such information, or by other employees of Dominion Energy or other Affiliates or Non-Regulated utility operations of DESC.

11. Should any inappropriate disclosure of DESC Customer Information occur at any time, DESC shall promptly file a statement with the Commission describing the circumstances of the disclosure, the Customer Information disclosed, the results of the disclosure, and the steps taken to mitigate the effects of the disclosure and prevent future occurrences.

### Complaint Procedure

The North Carolina Code of Conduct for DENC and PSNC outlines provisions for how these companies will resolve complaints that may arise due to the relationship of these companies with Dominion Energy, other Affiliates, and Non-Regulated utility operations. In this section, the NCUC explicitly states that the presence and use of these complaint procedures do not supersede or affect a complainant's right to file a formal complaint with the NCUC or the Public Staff of the NCUC.

ORS concludes that a similar provision in this Code for DESC would aid in the transparent resolution of customer concerns and complaints.

ORS recommends the inclusion of the following language with respect to this provision:

1. Procedures – DESC shall establish procedures to resolve potential complaints that arise due to the relationship of DESC with Dominion Energy, the other Affiliates, and the Non-Regulated utility operations. The complaint procedures shall provide for the following:
  - a. Verbal and written complaints shall be referred to a designated representative of DESC.
  - b. The designated representative shall provide written notification to the complainant within fifteen (15) days that the complaint has been received.
  - c. DESC shall investigate the complaint and communicate the results or status of the investigation to the complainant within sixty (60) days of receiving the complaint.
  - d. DESC shall each maintain a log of complaints and related records and permit inspection of documents (other than those protected by the attorney/client privilege), by the Commission, or the ORS.
2. Notwithstanding the provisions of Part 1 of this subsection., any complaints received through the Dominion Energy Compliance Line (or its successor), which is a confidential mechanism available to the employees of the Dominion Energy holding company system, shall be handled in accordance with procedures established for the Dominion Energy Compliance Line.

3. Commission – These complaint procedures do not affect a complainant’s right to file a formal complaint or otherwise address questions to the Commission or the ORS regarding a complaint.

#### Waiver Clause

In Section III(E)(4) of the Code of Conduct filed by DESC in this matter, the Company retained certain language related to preserving its rights to self-advocacy as follows (emphasis added):

“In providing accurate and truthful information, DESC, without waiving its rights to self-advocacy in supporting positions in regulatory proceedings before the Commission and specifically reserving all of its rights under the law, acknowledges that it must avoid the concealment, omission, misrepresentation, or nondisclosure of any material fact or information in any proceeding or filing before the Commission or ORS.”

In discussions between ORS and the Company, ORS expressed a position that the Company’s rights are automatically preserved and that there is no need to include such language in the Code. This language diminishes the appearance of DESC’s commitment to transparency and ORS recommends the Code approved by the Commission should not include this language.

#### Periodic Review

In addition to ORS’s recommendations to include certain provisions from the North Carolina Code of Conduct and as described herein, ORS concludes that the Code would benefit from a periodic review of and, as necessary, adjustments. Such a review and adjustment, as appropriate, would ensure that the intent of the merger conditions set forth in Order No. 2018-804 are being achieved. As such, the ORS recommends that the Code of Conduct be reviewed every four years with comments received by the Commission from interested customers and stakeholders by August 1 of each year, beginning on August 1, 2023.